



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

February 6, 2023

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 300
Washington, DC 20036

Re: OSC File No. DI-23-000003

Dear Mr. Kerner:

I am responding to your November 1, 2022, letter regarding allegations made by a Whistleblower at the Department of Veterans Affairs (VA) Detroit Healthcare System, John D. Dingell VA Medical Center, that an employee engaged in violations of law, rule, or regulation and abuse of authority. The Whistleblower disclosed that a Reasonable Accommodations Coordinator at the Veterans Integrated Service Network 10 requested money in exchange for processing, advocating for, and providing a favorable outcome on the whistleblower's reasonable accommodation and reassignment requests.

The Office of Inspector General's (OIG) Office of Investigations conducted an investigation and the results are in the enclosed report. Due to conflicting evidence, the OIG could not determine whether the employee solicited the loan from the Whistleblower or whether it was provided by the Whistleblower of her own initiative. Because the employee denied having a personal relationship with the Whistleblower, she should not have accepted the loan and may have been in violation of CFR § 2635.302 in doing so. That provision makes it improper for a Federal employee to accept a gift from another employee who receives less pay, unless the two employees are not in a subordinate-official superior relationship and there is a personal relationship between the two employees that would justify the gift. While the employee and the Whistleblower did not work in the same unit and were not in a subordinate-official superior relationship, the two did not have a personal relationship that would justify the gift. However, because the employee has retired from Federal service and because the United States Attorney's Office has declined to prosecute this matter, the OIG makes no recommendation in this regard.

Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read "DMcDonough".

Denis McDonough

Enclosure



DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF INSPECTOR GENERAL
WASHINGTON, DC 20420



February 1, 2023

MEMORANDUM

TO: Office of Special Counsel

FROM: Office of Inspector General, Department of Veterans Affairs

SUBJECT: Report of Investigation re File No. DI-23-000003 (Detroit)

Summary

On November 1, 2022, Henry Kerner, Special Counsel, reported to VA Secretary Denis R. McDonough a whistleblower disclosure alleging that an employee at the Department of Veterans Affairs (VA), VA Detroit Healthcare System, John D. Dingell VA Medical Center (Detroit VAMC), engaged in violations of law, rule, or regulation and abuse of authority. The complainant (Whistleblower) disclosed that a Reasonable Accommodations Coordinator (RAC 1) at the Veterans Integrated Service Network 10 (VISN 10):

requested money in exchange for processing, advocating for, and providing a favorable outcome on Whistleblower's reasonable accommodation and reassignment requests in violation of the Standards of Ethical Conduct for Employees of the Executive Branch and other federal laws, including criminal laws.

OSC notified VA that the allegations to be investigated include:

RAC 1 requested \$400 from Whistleblower, of which she returned \$200, in exchange for the performance of her official duties in violation of 5 C.F.R. § 2635.302(b) and (c); 5 C.F.R. § 2635.702(a); and 5 U.S.C. § 7353; and

Any additional or related allegations of wrongdoing discovered during the investigation of the foregoing allegation.

The Office of Inspector General (OIG) accepted the referral for investigation. Special agents from the OIG's Office of Investigations (OI) initiated an investigation on November 2, 2022, after receiving the referral from OSC. During the investigation, OIG agents interviewed Whistleblower on December 12, 2022; RAC 1 on December 12, 2022; and another VISN 10 Reasonable Accommodation Coordinator (RAC 2) on December 9, 2022.

To: Office of Special Counsel

OIG Investigation

On December 9, 2022, a VAOIG Special Agent contacted a VISN 10 Reasonable Accommodation Coordinator (RAC 2) to find out where RAC 1 works and was advised that RAC 1 resigned on October 23, 2022. In addition, RAC 2 advised the OIG Special Agent that an Administrative Investigative Board (AIB) had been conducted into the allegations raised by Whistleblower concerning RAC 1 asking for money from Whistleblower for helping her process her Reasonable Accommodation (RA) request. RAC 2 provided the OIG Special Agent with a copy of RAC 1's SF-50 along with other documentation concerning her resignation.

On December 12, 2022, OIG Special Agents interviewed Whistleblower. Whistleblower, a GS-6 employee, stated that she contacted RAC 1, a GS-12 employee, to get assistance with Whistleblower's reasonable accommodation request. Whistleblower stated RAC 1 told Whistleblower she was depressed and had financial problems and she could not concentrate on Whistleblower's reasonable accommodation. Whistleblower alleged that RAC 1 asked Whistleblower for \$400 to help alleviate some of her stress so she could concentrate and get her a resolution. Whistleblower stated that she did not have a personal or social relationship with RAC 1. RAC 1 sent Whistleblower her CashApp QR code and Whistleblower sent RAC 1 \$200 via CashApp. Whistleblower provided copies of the text messages with RAC 1 to the OIG investigators. (Whistleblower had previously provided the messages to the VISN in connection with the AIB.) A few months later, Whistleblower asked RAC 1 for the \$200 back and RAC 1 sent it back via CashApp (June 2022).

On December 12, 2022, OIG investigators interviewed RAC 1. RAC 1 stated Whistleblower wanted to be reassigned from her current position in the mental health unit at the Detroit VAMC to a different VAMC because of harassment from her supervisor and a hostile work environment. RAC 1 shared with Whistleblower that she had financial issues due to her income taxes and Whistleblower told her she knew a tax person and later that evening Whistleblower sent her \$200 via CashApp (in January 2022). RAC 1 stated she did not have a personal or social relationship with Whistleblower but knew her from work. RAC 1 denied that she asked Whistleblower for money. She said she may have given Whistleblower her CashApp code, but said she did not remember doing so. RAC 1 admitted to receiving \$200 from Whistleblower the next day. RAC 1 stated she did not promise Whistleblower anything. RAC 1 denied ever receiving or asking anyone else for money in exchange for helping them with a reasonable accommodation. RAC 1 said that she found a temporary social worker position to which Whistleblower could move to get her out of her current environment, but Whistleblower declined. RAC 1 also found another position at the same facility and submitted Whistleblower's resume. Whistleblower also declined to move to that position and insisted that she be moved to another facility.

The OIG reviewed an email sent from RAC 2 to a human resources employee related to an interview RAC 2 conducted with Whistleblower on June 30, 2022, as part of the AIB relating to Whistleblower's allegations. Whistleblower told RAC 2 that RAC 1 and Whistleblower had known each other for a few years before Whistleblower requested a reasonable accommodation. Whistleblower first requested a reasonable accommodation in March 2020 and apparently received one. In January 2022, Whistleblower reached out to RAC 1 about her reasonable accommodation. Whistleblower's manager told Whistleblower that he was informed by his

To: Office of Special Counsel

supervisor that Whistleblower's reasonable accommodation request was fraudulent. On January 11, 2022, RAC 1 met with both Whistleblower and her manager and verified the reasonable accommodation was not fraudulent.

Whistleblower further told RAC 2 that on or about January 12, 2022, RAC 1 told Whistleblower the IRS had frozen RAC 1's bank account. RAC 1 asked Whistleblower for a loan of \$400. Whistleblower said she thought about the request overnight and the next day sent RAC 1 \$200 through CashApp. Whistleblower alleged to RAC 2 that on a later unspecified date RAC 1 told Whistleblower that she (RAC1) did not have to repay the money to Whistleblower because Whistleblower's job was secure. According to Whistleblower, on May 27, 2022, she asked RAC 1 for the return of her money and RAC 1 allegedly responded by offering Whistleblower a social worker position in response to her request for a reasonable accommodation. Whistleblower declined the offer. On June 10, 2022, Whistleblower again asked RAC 1 to return her money and to let her know when RAC 1 would return it. Whistleblower acknowledged that RAC 1 returned the \$200 through CashApp that day.

Whistleblower told RAC 2 that, on June 14, 2022, RAC 1 told her that her request for reasonable accommodation was "fulfilled" because Whistleblower declined the social work position that was offered. Whistleblower continued to seek a reasonable accommodation and said that RAC 1 refused to assist her. However, email records show that RAC 1 continued to seek reassignment opportunities for Whistleblower. On June 25, 2022, RAC 1 reached out to a manager concerning a VISN 12 call center position for Whistleblower. The manager found Whistleblower to be qualified. RAC 1 continued to communicate with the manager as well as a VISN 12 human resources representative to continue working on the reassignment. On July 4, 2022, RAC 1 forwarded Whistleblower's resume and SF-50 to the manager and VISN 12 human resources representative.

Whistleblower submitted another request for reasonable accommodation on July 14, 2022, to RAC 2.

RAC 1 resigned from VA effective October 23, 2022. The OIG received notes of the interview of RAC 1 conducted during the AIB and a follow-up email. In the email from RAC 1 to the AIB investigator, RAC 1 denies any personal relationship with Whistleblower and stated she would not know what she looked like. She also denied ever inviting Whistleblower to her house or a family event. She further denied asking Whistleblower for any money or receiving any money from Whistleblower. In the email, RAC 1 discusses being in a "dark place" in January 2022 because the loss of her mother in January 2020 and her brother in July 2021. In the email, RAC 1 advised that she had decided to retire from VA after 31 years of service. She subsequently resigned from VA with a delayed retirement. OIG investigators subsequently interviewed RAC 1 as discussed above.

On January 3, 2023, an Assistant United States Attorney in Detroit, Michigan, declined to prosecute the case due to RAC 1 no longer being a federal employee and in favor of administrative action.

To: Office of Special Counsel

Conclusion

Due to conflicting evidence, the OIG could not determine whether RAC 1 solicited the loan from Whistleblower or whether it was provided by Whistleblower of her own initiative. However, because RAC 1 denied having a personal relationship with Whistleblower, she should not have accepted the loan and may have been in violation of 5 CFR § 2635.302 in doing so.¹ That provision makes it improper for a federal employee to accept a gift² from another employee who receives less pay, unless the two employees are not in a subordinate-official superior relationship *and* there is a personal relationship between the two employees that would justify the gift. Here, while RAC 1 and Whistleblower did not work in the same unit and were not in a subordinate-official superior relationship, the two did not have a personal relationship that would justify the gift. However, because RAC 1 has retired from federal service and because the United States Attorney's Office has declined to prosecute this matter, the OIG makes no recommendation in this regard.

¹ 5 CFR § 2635.302(b) provides:

(b) *Gifts from employees receiving less pay.* Except as provided in this subpart, an employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself unless:

- (1) The two employees are not in a subordinate-official superior relationship; and
- (2) There is a personal relationship between the two employees that would justify the gift.

² 5 CFR § 2635.203(b) defines "gift" to include "any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value."



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OFFICE OF INSPECTOR GENERAL
WASHINGTON, DC 20420



February 1, 2023

MEMORANDUM

TO: Office of Special Counsel

FROM: Office of Inspector General, Department of Veterans Affairs

SUBJECT: Addendum to Report of Investigation re File No. DI-23-000003
(Detroit)

List of Interviewees

	Interviewee Name	Position	Report Reference
1	[REDACTED]	Advanced Medical Support Assistant	Whistleblower
2	[REDACTED]	Reasonable Accommodations Coordinator	RAC 1
3	[REDACTED]	Reasonable Accommodations Coordinator	RAC 2